

ESTTA Tracking number: **ESTTA664112**

Filing date: **03/31/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Bigfoot 4x4, Inc.
Granted to Date of previous extension	04/08/2015
Address	6311 N. Lindbergh Blvd Hazelwood, MO 63042 UNITED STATES
Correspondence information	David A. Weinstein 695 South Colorado Boulevard, Suite 360 Denver, CO 80246 UNITED STATES davidaweinstein@qwestoffice.net Phone:303-863-8818

Applicant Information

Application No	86342114	Publication date	12/09/2014
Opposition Filing Date	03/31/2015	Opposition Period Ends	04/08/2015
Applicant	Nolan Drogmund 526 w b st Shelton, WA 98584 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: On-line retail store services featuring clothing, herbal supplements; Retail pharmacy services; Retail stores featuring clothing, herbal supplements

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2990865	Application Date	02/13/2002
Registration Date	09/06/2005	Foreign Priority Date	NONE
Word Mark	BIGFOOT		

Design Mark	BIGFOOT
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1979/09/00 First Use In Commerce: 1979/09/00 Retail store services, mail order and electronic catalog services, and on-line retail store services, all featuring clothing, toys, videotapes, photos, posters, novelties, and video games, all featuring a monster truck theme

U.S. Registration No.	1446868	Application Date	03/07/1983
Registration Date	07/07/1987	Foreign Priority Date	NONE
Word Mark	BIGFOOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1980/03/00 First Use In Commerce: 1980/03/00 MAIL ORDER SERVICES IN THE FIELD OF NOVELTY ITEMS		

U.S. Registration No.	3641155	Application Date	12/22/2003
Registration Date	06/16/2009	Foreign Priority Date	NONE
Word Mark	BIGFOOT 4X4		
Design Mark	BIGFOOT 4X4		
Description of	NONE		


Mark	
Goods/Services	Class 012. First use: First Use: 2005/01/28 First Use In Commerce: 2005/01/28 monster trucks with tires equal to or greater than 48 inches

U.S. Registration No.	1445622	Application Date	10/31/1983
Registration Date	06/30/1987	Foreign Priority Date	NONE
Word Mark	BIGFOOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1976/07/00 First Use In Commerce: 1976/07/00 ENTERTAINMENT SERVICES - NAMELY, CONDUCTING FOUR WHEEL DRIVE VEHICLE EXHIBITIONS		

U.S. Registration No.	1387617	Application Date	05/06/1983
Registration Date	03/25/1986	Foreign Priority Date	NONE
Word Mark	BIG FOOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1981/04/13 First Use In Commerce: 1981/04/13 Toy Vehicles		

U.S. Registration No.	1228960	Application Date	06/03/1981
Registration Date	03/01/1983	Foreign Priority Date	NONE
Word Mark	BIG FOOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1981/04/13 First Use In Commerce: 1981/04/13 Toy Vehicles Having 4-Wheel Drive		

U.S. Registration No.	3125288	Application Date	12/19/2001
Registration Date	08/08/2006	Foreign Priority Date	NONE
Word Mark	BIGFOOT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1987/00/00 First Use In Commerce: 1987/00/00 Videotapes featuring monster trucks; interactive video game programs featuring monster trucks; multimedia software recorded on CD Rom in the field of monsters truck races and demonstrations; and digital video discs featuring monster trucks

U.S. Registration No.	1973606	Application Date	01/25/1994
Registration Date	05/14/1996	Foreign Priority Date	NONE
Word Mark	BIGFOOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1979/00/00 First Use In Commerce: 1979/00/00 T-shirts, jerseys, jackets and caps		

U.S. Registration No.	1433779	Application Date	03/07/1983
Registration Date	03/24/1987	Foreign Priority Date	NONE
Word Mark	BIGFOOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1976/07/00 First Use In Commerce: 1976/07/00 PHOTOGRAPHS, POSTERS, [CALENDARS, IRON-ON TRANSFERS,] AND CATALOGS		

Attachments	76370655#TMSN.png(bytes) 78344220#TMSN.png(bytes) 76350720#TMSN.png(bytes) Notice of Opposition.pdf(262357 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/david a. weinstein/
Name	David A. Weinstein
Date	03/31/2015

things.

2. Opposer owns the following United States Patent and Trademark Office registrations covering the goods and services noted below (hereafter "Opposer's Goods and Services"), namely,

Registration No.	Mark	Covering
3,641,155 registered June 16, 2009	BIGFOOT 4X4	monster trucks with tires equal to or greater than 48 inches
1,445,622 June 30, 1987	BIGFOOT	entertainment services, namely, conducting four wheel drive vehicle exhibitions
1,387,617 registered March 25, 1986	BIGFOOT	toy vehicles
1,228,960 registered March 1, 1983	BIGFOOT	toy vehicles have a 4-wheel drive
3,125,288 registered August 8, 2006	BIGFOOT	videotapes featuring monster trucks; interactive video game programs featuring monster trucks; multimedia software recorded on CD rom in the field of monster truck races and demonstrations; and digital video discs featuring monster trucks
2,990,865 registered September 6, 2005	BIGFOOT	retail store services, mail order and electronic catalog services, and on-line retail store services, all featuring clothing, toys, videotapes, photos, posters, novelties, and video games, all featuring a monster truck theme
1,973,606 registered May 14, 1996	BIGFOOT	t-shirts, jerseys, jackets and caps
1,446,868 registered July 7, 1987	BIGFOOT	Mail order services in the field of novelty items
1,433,779 registered March 24, 1987	BIGFOOT	Photographs, posters, calendars, iron-on transfers, and catalogs

A true copy of each registration certificate is attached hereto as Opposer's Exhibit 1.

3. Opposer currently uses Opposer's Mark in connection with Opposer's Goods and

Services offered in commerce.

4. Opposer's Goods and Services bearing Opposer's Mark have been extensively and continuously offered to the public through various channels of trade throughout the United States.

5. By reason of advertising and wide distribution of Opposer's Goods and Services bearing Opposer's Mark, the public has come to recognize Opposer's Mark as signifying Opposer and Opposer's Goods and Services.

6. Opposer has built up extensive good will in connection with the sale and offering of Opposer's Goods and Services under Opposer's Mark.

7. Opposer's Mark is well-known throughout the United States.

8. The registration dates for Opposer's Marks are earlier than and prior to the filing date of Applicant's Mark as set forth in the Application as well as any use date applicable to the Application.

9. Upon information and belief, Applicant did not first use Applicant's Mark in connection with Applicant's Services, or services or goods the same as or closely related to Applicant's Services, prior to the aforementioned registration dates.

10. Applicant's Mark is substantially the same as BIGFOOT, which is one of Opposer's Mark.

11. Members of the relevant public and trade are likely to be misled, confused, or deceived by Applicant's Mark, erroneously believing that Applicant's Services are provided, sponsored, approved by, or in some way connected, related to, or associated with Opposer, and or are that Opposer licenses or otherwise authorizes Applicant's use of Opposer's Mark, all to

Opposer's irreparable damage.

12. Applicant's Mark is confusingly similar to Opposer's Mark and registration of and use and or continued use of Applicant's Mark on and in connection Applicant's Services is likely to cause confusion, deception, and mistake.

13. Applicant's use of Applicant's Mark will interfere with Opposer's use of Opposer's Mark and Applicant's use and or continued use and Applicant's registration of Applicant's Trademark will seriously damage and injure Opposer.

14. Opposer will be damaged by registration of Applicant's Mark.

WHEREFORE, Opposer prays that: this opposition be sustained, that Applicant's Mark be denied and refused registration, that the Trademark Trial and Appeal Board award Opposer its attorney and expert witness fees and costs in connection with this opposition, and that the Trademark Trial and Appeal Board enter such other relief to Opposer as it deems just and proper.

Dated: March 31, 2015

Respectfully,



David A. Weinstein
Opposer's Attorney
695 South Colorado Boulevard, Suite 360
Denver, Colorado
303-863-8818
303-863-8820 telefax
davidaweinstein@qwestoffice.net

CERTIFICATE OF SERVICE

This is to certify that on March 31, 2015, a copy of this Notice of Opposition was deposited in the United States mail first-class postage prepaid addressed to Applicant's address of record



EXHIBIT 1

Int. Cl.: 16

Prior U.S. Cls.: 37 and 38

United States Patent and Trademark Office **Reg. No. 1,433,779**
Registered Mar. 24, 1987

**TRADEMARK
PRINCIPAL REGISTER**

BIGFOOT

**BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
617 PLANTMORE
ST. LOUIS, MO 63135**

**FIRST USE 7-0-1976; IN COMMERCE
7-0-1976.**

SER. NO. 416,166, FILED 3-7-1983.

**FOR: PHOTOGRAPHS, POSTERS, CALEN-
DARS, IRON-ON TRANSFERS, AND CATA-
LOGS, IN CLASS 16 (U.S. CLS. 37 AND 38).**

**STEVEN L. CATALANO, EXAMINING ATTOR-
NEY**

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35, and 44

United States Patent and Trademark Office

Reg. No. 3,641,155

Registered June 16, 2009

**TRADEMARK
PRINCIPAL REGISTER**

BIGFOOT 4X4

**BIGFOOT 4X4, INC. (MISSOURI CORPORATION)
6311 N. LINDBERGH BLVD.
HAZELWOOD, MO 630422876**

**OWNER OF U.S. REG. NOS. 1,387,617, 1,973,606,
AND OTHERS.**

**FOR: MONSTER TRUCKS WITH TIRES EQUAL
TO OR GREATER THAN 48 INCHES, IN CLASS 12
(U.S. CLS. 19, 21, 23, 31, 35 AND 44).**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "4X4", APART FROM THE MARK
AS SHOWN.**

FIRST USE 1-28-2005; IN COMMERCE 1-28-2005.

SN 78-344,220, FILED 12-22-2003.

**THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.**

BARBARA GAYNOR, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cl.: 107

United States Patent and Trademark Office

Reg. No. 1,445,622

Registered June 30, 1987

**SERVICE MARK
PRINCIPAL REGISTER**

BIGFOOT

**BIGFOOT 4X4 INCORPORATED (MISSOURI
CORPORATION)
6311 N. LINDBERGH
ST. LOUIS, MO 63042**

**FOR: ENTERTAINMENT SERVICES -
NAMELY, CONDUCTING FOUR WHEEL
DRIVE VEHICLE EXHIBITIONS, IN CLASS 41
(U.S. CL. 107).**

**FIRST USE 7-0-1976; IN COMMERCE
7-0-1976.**

**OWNER OF U.S. REG. NOS. 1,228,960,
1,251,879, AND 1,387,617.**

SER. NO. 450,276, FILED 10-31-1983.

**DOMINICK J. SALEMI, EXAMINING ATTOR-
NEY**

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,387,617
Registered Mar. 25, 1986

**TRADEMARK
PRINCIPAL REGISTER**

BIG FOOT

ARCO INDUSTRIES LTD. (HONG KONG COR-
PORATION)
800 SHAMES DR.
WESTBURY, NY 11590

FIRST USE 4-13-1981; IN COMMERCE
4-13-1981.

OWNER OF U.S. REG. NO. 1,228,960.

SER. NO. 424,692, FILED 5-6-1983.

FOR: TOY VEHICLES, IN CLASS 28 (U.S. CL.
22).

AMOS T. MATTHEWS, JR., EXAMINING AT-
TORNEY

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,228,960
Registered Mar. 1, 1983

TRADEMARK
Principal Register

BIGFOOT

Arco Industries Ltd. (Hong Kong corporation)
505 Star House
Kowloon, Hong Kong

For: TOY VEHICLES HAVING 4-WHEEL
DRIVE, in CLASS 28 (U.S. Cl. 22).

First use Apr. 13, 1981; in commerce Apr. 13,
1981.

No claim is made to the exclusive right to use the
representation of two wheels, apart from the mark as
shown.

Ser. No. 313,073, filed Jun. 3, 1981.

WILBUR C. DAVIS, Examining Attorney

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

United States Patent and Trademark Office

Reg. No. 3,125,288

Registered Aug. 8, 2006

**TRADEMARK
PRINCIPAL REGISTER**

BIGFOOT

BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)

6311 N. LINDBERGH

HAZELWOOD, MO 63042

FOR: VIDEOTAPES FEATURING MONSTER
TRUCKS; INTERACTIVE VIDEO GAME PRO-
GRAMS FEATURING MONSTER TRUCKS; MULTI-
MEDIA SOFTWARE RECORDED ON CD ROM IN
THE FIELD OF MONSTERS TRUCK RACES AND
DEMONSTRATIONS; AND DIGITAL VIDEO DISCS

FEATURING MONSTER TRUCKS. IN CLASS 9 (U.S.
CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

OWNER OF U.S. REG. NOS. 1,228,960, 1,446,868
AND OTHERS.

SER. NO. 76-350,720, FILED 12-19-2001.

MONIQUE MILLER, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,990,865

Registered Sep. 6, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

BIGFOOT

BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
6311 N. LINDBERGH
HAZELWOOD, MO 63042

FIRST USE 9-0-1979; IN COMMERCE 9-0-1979.

OWNER OF U.S. REG. NOS. 1,387,617, 1,446,868
AND OTHERS.

FOR: RETAIL STORE SERVICES, MAIL ORDER
AND ELECTRONIC CATALOG SERVICES, AND
ON-LINE RETAIL STORE SERVICES, ALL FEATUR-
ING CLOTHING, TOYS, VIDEOTAPES, PHOTOS,
POSTERS, NOVELTIES, AND VIDEO GAMES, ALL
FEATURING A MONSTER TRUCK THEME, IN
CLASS 35 (U.S. CLS. 100, 101 AND 102).

SER. NO. 76-370,655, FILED 2-13-2002.

DAHLIA GEORGE, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,973,606

Registered May 14, 1996

**TRADEMARK
PRINCIPAL REGISTER**

BIGFOOT

BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
6311 N. LINDBERGH
HAZELWOOD, MO 63042

OWNER OF U.S. REG. NOS. 1,387,617, 1,448,582
AND OTHERS.

SER. NO. 74-482,912, FILED 1-25-1994.

FOR: T-SHIRTS, JERSEYS, JACKETS AND
CAPS, IN CLASS 25 (U.S. CL. 39).

FIRST USE 0-0-1979; IN COMMERCE
0-0-1979.

JACQUELINE A. LAVINE, EXAMINING AT-
TORNEY

Int. Cl.: 42

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,446,868

Registered July 7, 1987

**SERVICE MARK
PRINCIPAL REGISTER**

BIGFOOT

BIGFOOT 4X4, INCORPORATED (MISSOURI
CORPORATION)
6311 N. LINDBERGH
ST. LOUIS, MO 63042

FIRST USE 3-0-1980, IN COMMERCE
3-0-1980.

OWNER OF U.S. REG. NOS. 1,228,960,
1,251,879, AND 1,387,617.

SER. NO. 416,164, FILED 3-7-1983.

FOR: MAIL ORDER SERVICES IN THE
FIELD OF NOVELTY ITEMS, IN CLASS 42
(U.S. CL. 101).

DOMINICK J. SALEMI, EXAMINING ATTOR-
NEY